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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,703	06/28/2002	Clint Stanley Scott Jensen	02-203-US	9389

7590 02/24/2005

Frederick H Colen  
Reed Smith  
PO Box 488  
Pittsburgh, PA 15230

EXAMINER

PHAM, HUONG Q

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/070,703

Applicant(s)

JENSEN, CLINT STANLEY SCOTT

Examiner

Huong Q. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sneeston in view of Okaski.

As for claim 1, Sneeston teaches a brace comprising a heel strap (reference # 7 in figure 1), a length adjustable sole strap 16 (the strap is made of elastic therefore is adjustable to the size of a shoe), and an instep strap, wherein one end of each of the heel, sole and instep straps are joined at a common point and the other end of each of the heel, sole and instep straps are joined at another common point. Okaski teaches a length adjustable tensionable instep strap. In view of the teaching of Okaski, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an adjustable means for the instep strap of Sneeston in order to provide tension adjustability for the strap. As for claim 2, note the two portions of the tensionable instep strap, and the adjustability of member 15 of Osaki. In view of the teaching of Osaki, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the instep strap and the sole strap of Sneeston adjustable

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by providing two portions which can be releasably fixed together in order to provide adjustability for different sizes of shoes. As for claims 3-4, note the pins and holes 4 and buckle of Osaki (figure 2). As for claim 9, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide left and right braces for using with left and right shoes.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sneeston in view of Trimble et al.

Note the comments above for the teachings of Sneeston. Trimble et al teaches a length adjustable instep strap which has a serrated upper surface as recited. In view of the teaching of Trimble et al, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide this adjustable means for the instep strap of Sneeston, or for any strap, in order to provide adjustability for the instep strap.

Claims 6 and 7, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ray in view of Osaki and Sneeston.

Ray teaches substantially claimed feature of claims 6 and 7 except for the recited adjustability of the instep strap and the sole strap. Osaki teaches a length adjustable instep strap. Sneeston teaches a length adjustable sole strap. In view of the teachings of Osaki and Sneeston, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the straps of Ray with adjustable means to adjust the length of the straps. As for claim 10, it would have been obvious to one of

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ordinary skill in the art at the time the invention was made to provide left and right braces for using with left and right shoes.

Claims 8, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ray in view of Osaki and Sneeston, and further in view of Trimble et al.

Note the comments above for the teachings of Ray, Osaki, Sneeston, and Trimble et al. Note the pins and holes 4 in figure 2 of Osaki. As for claim 10, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide left and right braces for using with left and right shoes.

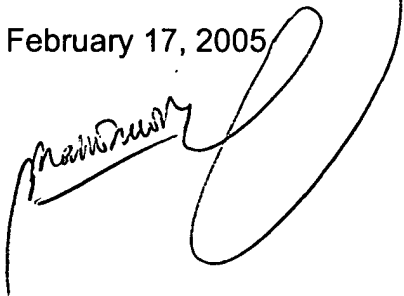
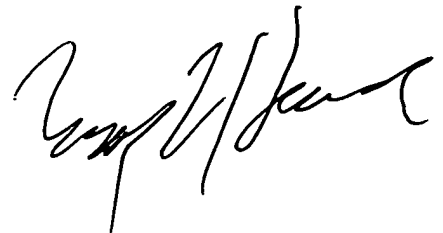
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huong Q. Pham whose telephone number is (571) 272-4980. The examiner can normally be reached on 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272 - 4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 17, 2005

A handwritten signature in black ink, appearing to read "M. D. D. D.", with a large, loopy flourish extending from the end.A handwritten signature in black ink, appearing to read "Gregory L. Huson", with a large, loopy flourish extending from the end.

GREGORY L. HUSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700